

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)	
COMMISSION OF THE APPLICATION OF THE FUEL)	CASE NO.
ADJUSTMENT CLAUSE OF KENTUCKY UTILITIES)	92-493
COMPANY FROM NOVEMBER 1, 1990 TO OCTOBER)	
31, 1992)	

O R D E R

Kentucky Utilities Company ("KU") has applied for reconsideration of the Commission's Order of April 5, 1993 in Case No. 92-493. More specifically, KU requests that the Commission eliminate the requirement that the rates set forth in that Order be subject to refund. KU has also moved for the incorporation of certain prior Commission Orders into the record.

The case at bar is the Commission's review of the operation of KU's fuel adjustment clause ("FAC") for the period ending October 31, 1992. Commission Regulation 807 KAR 5:056, Section 1(12), requires the Commission every two years to review and evaluate the past operations of each electric utility's FAC, disallow improper expenses and to the extent appropriate reestablish the FAC charge.

While this case was pending, the Commission learned of proceedings before the Federal Energy Regulatory Commission ("FERC") involving KU's past depreciation practices of which the FERC Staff was highly critical.¹ In September 1976, KU purchased 126 rail cars to transport coal from the Coal Ridge Mine to KU's

¹ Kentucky Utilities Company, FERC Docket No. FA 91-65-000.

Ghent Generation Station. KU used a 12-year service life to determine the depreciation rate and the amount to accrue as depreciation expense. KU recorded this depreciation expense as a fuel cost and passed this expense through its FAC. In 1988 when the rail cars' useful life had ended, KU ceased computing depreciation expense on them. At the same time, KU filed requests with the Kentucky Commission and FERC to recover from its customers the \$14.5 million buyout costs related to the Coal Ridge coal contract through its FAC. Both regulatory commissions granted their approval.² With the termination of the Coal Ridge coal contract, KU stopped using the rail cars. In 1989 it leased the cars for one year for \$600,000. In December 1990, it sold the cars for \$3,049,200.

FERC Staff recently audited KU's books and records and found that KU had failed timely to adjust the estimates of service life and salvage for accruing depreciation expense on the railroad cars. It further found that, after failing properly to adjust its depreciation accruals, KU incorrectly accounted for the proceeds from the subsequent rental and sale of the cars. The FERC Staff noted:

The rental and subsequent sale of the coal cars was directly linked to the buyout of the Coal Ridge coal supply contract. The Company deferred the buyout costs in Account 186, and subsequently allocated those costs to future periods. The Company's termination of

² Case No. 10214, Application of Kentucky Utilities Company for an Order Approving Certain Accounting Treatment of Amounts Paid for Coal Contract Release (Oct. 7, 1988); Kentucky Utilities Company, 49 F.E.R.C. ¶61,008 (Oct. 5, 1989).

the Coal Ridge contract and rental and sale of the coal cars resulted from the same event, namely shedding contracts and assets that no longer resulted in acquisition of fuel supply at the lowest economic cost to the utility. Therefore, the buyout cost and the proceeds from the rental and sale of the coal cars should have been similarly accounted for. This is of particular important [sic] here since the Company had received permission from regulatory authorities to defer the buyout costs in Account 186, and recover such amounts in future billings to customers.

. . . .

The cars became available for rental and subsequent sale as a result of the coal buyout. Therefore, the Company should have reduced the buyout costs properly chargeable to the wholesale customers by the net proceeds from both the rental and the sale of the cars.

The failure to similarly account for the related transactions resulted in passing on the buyout costs to its customers through FAC billings while retaining the proceeds from the rental and sale of the coal cars for the benefit of stockholders.

Division of Audits, Fed. Energy Regulatory Comm'n, Results of the Examination of the Books and Records of Kentucky Utilities Co.

(FERC Docket No. FA91-65-000) at 5 - 8.

The FERC Staff recommended that KU revise its current depreciation practices, perform certain correcting entries to account for the rental and sales proceeds properly, recompute its FAC billings for each period in which buyout costs were included as a cost of fuel, and make refunds to customers for any overcollected amounts.

KU contested the report's findings and requested a hearing before FERC. That hearing is scheduled for June 17, 1993.

In its Order of April 5, 1993, the Commission found that its review of KU's FAC should remain open until the FERC proceedings are completed and it had reviewed the evidence and argument presented there. No ruling was made on KU's application or the calculation of its FAC. The Commission further established new rates for KU which transferred certain FAC charges from KU's FAC rate to its base fuel rate. These new rates were made subject to refund.

In its application for reconsideration, KU requests that these rates not be made subject to refund. It advances four arguments in support of its request. First, KU argues that the Order of April 5, 1993 is inconsistent with prior Commission Orders in which the FAC billings involving the depreciation expenses in question were found to be reasonable and in compliance with all material respects with Commission Regulation 807 KAR 5:056.

This argument ignores several key facts. In none of the proceedings to which KU refers did the Commission make specific findings on KU's depreciation practices. Moreover, our prior actions do not preclude our review of the Coal Ridge contract buyout costs which are included in the current period under review. Approximately \$6 million of the buyout costs were passed through KU's FAC between November 1, 1990 and October 31, 1992. As KU failed to advise us of the rental and sale of its rail cars, these transactions are still subject to review to determine whether those portions of KU's FAC charges which are attributed to Coal Ridge

contract buyout costs are proper FAC charges. Moreover, KU's present depreciation practices for rail cars are clearly a proper subject of this FAC review.

KU next argues that the FERC proceeding involves only KU's wholesale customers, not its retail customers. It further argues that FERC's decisions are not binding on this Commission and have no applicability to KU's customers. If the Commission wishes to investigate KU's depreciation practices, KU asserts, then it must initiate its own investigation.

KU correctly notes that the Commission is not bound by FERC's actions in this matter. We have held this case in abeyance pending the outcome of the FERC proceeding solely for reasons of administrative convenience. Waiting until the conclusion of the FERC proceeding allows us access to all information assembled in that proceeding. Discovery in this case, therefore, will be reduced. KU will not be forced to respond to similar requests for information from different regulatory bodies.

KU also argues that the Order imposes undue and unnecessary administrative burdens. It contends that credits to ratepayers will serve the same purpose as refunds. If the Commission finds any charges were improper, credits to then-current ratepayers could begin. This action will avoid the administrative burden of segregating and maintaining customer information.

Given the administrative burden which refunding may impose and the small size of any potential customer refund, we find that KU's proposal is reasonable and should be accepted in this

instance. Its proposal is also consistent with our actions in prior FAC reviews conducted while Case No. 9631³ was pending.

Having found that the rates established in the Order of April 5, 1993 should not be subject to refund, we do not address KU's argument that Commission Regulation 807 KAR 5:056 does not authorize refunds.

KU's motion to incorporate certain prior Commission Orders by reference is denied. KU can always argue that these Orders, or portions thereof, are supportive of any position advocated by KU.

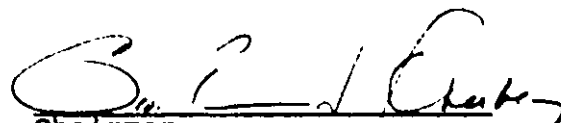
IT IS THEREFORE ORDERED that:

1. KU's application for reconsideration is granted.
2. The words "subject to refund" are stricken from Finding Paragraph 5 and Ordering Paragraph 2 of the Order of April 5, 1993.
3. KU's Motion to Incorporate Prior Commission Orders by Reference is denied.
4. The record of Case No. 10214 is incorporated by reference into the record of this case.
5. Within 20 days of the date of this Order, KU shall file with the Commission two copies of all materials previously filed in FERC Docket No. FA91-65-000 by KU or any other party to that proceeding.
6. KU shall also file two copies of all materials subsequently filed in FERC Docket No. FA91-65-000 within 10 days of such material's filing with FERC.

³ Case No. 9631, An Investigation Into the Fuel Procurement Practices of Kentucky Utilities Company.

Done at Frankfort, Kentucky, this 13th day of May, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director